

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6870
BILL NUMBER: SB 361

NOTE PREPARED: Feb 12, 2013
BILL AMENDED: Feb 11, 2013

SUBJECT: Intimidation.

FIRST AUTHOR: Sen. Crider
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill provides that for the crime of intimidation, "communicates" includes posting a message electronically, including on a social networking web site.

The bill provides that it is a Class D felony if the person to whom the threat is communicated is:

- (1) an employee, representative, student, patient, or invitee of a hospital, school, church, or religious organization; or
- (2) an employee or invitee of a person that owns, occupies, or has a contractual relationship in a building or structure that is open to the public.

The bill also specifies that communicating a threat with the intent to inhibit occupancy of certain buildings may constitute intimidation.

Effective Date: July 1, 2013.

Explanation of State Expenditures: (Revised) There are no data available to indicate if more people will be convicted of this Class A misdemeanor if posting a message electronically is added to the definition of communication, or if more people will be convicted of the Class D felony if a threat to an employee, representative, student, patient, or invitee of certain organizations or to certain buildings or structures is added to the criteria for the enhanced penalty.

On average, between 2008 and 2012, there were 76 offenders per year sentenced to a state facility for intimidation as a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings or sentenced to a county jail for up to one year for a Class A misdemeanor, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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